

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID FUENTES, SR,  
Plaintiff,

v.

MR. MANNING, et al.,  
Defendants.

No. 2:23-cv-0386 CSK P

ORDER

Plaintiff is a former state prisoner. On April 11, 2025, defendants filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 37 and 41. (ECF No. 43.) Plaintiff did not file an opposition. On May 13, 2025, plaintiff was granted an additional thirty days to file an opposition. (ECF No. 45.) Plaintiff did not file an opposition to the motion, which was due on or before June 12, 2025.

Instead, on June 18, 2025, plaintiff filed a letter asking the Court to grant him time to “prove [himself] to the Courts, the staff at Mule Creek and the Governor.” (ECF No. 45 at 1.) Plaintiff seeks time to take a polygraph exam offered to plaintiff by a private investigator firm. (Id.) Plaintiff states that after he proves himself, his “next step will be filing murder charges.” (Id.)

First, to the extent plaintiff seeks an extension of time to oppose defendants’ motion to dismiss, or to respond to the Court’s May 13, 2025 order, his motion is untimely. If plaintiff

1 seeks to extend a Court deadline, he should file any request for extension of time before the  
2 deadline expires. Second, plaintiff's filing does not address defendants' motion, the Court's  
3 order, or plaintiff's repeated failures to properly respond to discovery requests, as set forth in this  
4 Court's March 11, 2025 order, as well as defendants' motion to dismiss. (ECF Nos. 42, 43.)  
5 Third, whether or not plaintiff opts to take a polygraph exam has no bearing on plaintiff's  
6 obligation to cooperate in discovery. Finally, plaintiff's reference to murder charges is unclear  
7 and does not appear relevant to this civil rights action.

8 For all of these reasons, plaintiff's motion is denied as untimely and not relevant to the  
9 pending motion to dismiss. In an abundance of caution, plaintiff is granted fourteen days to  
10 respond to the May 13, 2025 order. No further extensions of time will be granted.

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. Plaintiff's motion for extension of time to take a polygraph (ECF No. 45) is denied;  
13 and  
14 2. Within fourteen days from the date of this order, plaintiff shall comply with the Court's  
15 May 13, 2025 order requiring plaintiff to file an opposition, if any, to the motion to dismiss.  
16 Failure to file an opposition will be deemed as consent to have the: (a) action dismissed for lack  
17 of prosecution; and (b) action dismissed based on plaintiff's failure to cooperate in discovery, and  
18 failure to comply with these rules and a court order. Said failure shall result in a recommendation  
19 that this action be dismissed pursuant to Federal Rule of Civil Procedure 41(b).

20 Dated: June 23, 2025

21   
22 CHI SOO KIM  
23 UNITED STATES MAGISTRATE JUDGE

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